



## POLICE DEPARTMENT

October 29, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Carl Abenante  
Tax Registry No. 905408  
106 Precinct  
Disciplinary Case No. 2013-8900  
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The above-named member of the Department appeared before me on June 27, 2014, charged with the following:

Disciplinary Case No. 2013-8900

1. Said Police Officer Carl Abenante, while assigned to the 106<sup>th</sup> Precinct, on one (1) occasion between October 2011 and November 2011, wrongfully engaged in off-duty employment in a security capacity at the Hustler Club without Department authority or permission to do so.

P.G. 205-40, Page 4, Additional Data - OFF DUTY EMPLOYMENT  
PERSONNEL MATTERS

The Department was represented by Samuel Yee, Esq. and Vivian Joo, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charge. A stenographic transcript of the mitigation hearing record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent is a 23-year member of the Department who has been assigned to the 106 Precinct for the past 20 years. Respondent admitted that on one night during either October or November of 2011, he engaged in off-duty employment in a security capacity at the Hustler Club in Manhattan which he knew sold alcoholic beverages to its patrons. He acknowledged that he did not seek permission from the Department to engage in this off-duty employment even though he was aware of the Patrol Guide's provisions governing off-duty employment.

Respondent recalled that on the single occasion that he worked at the Hustler Club, he wore a black turtleneck and a blazer. He was not carrying a firearm. He stood in the vestibule area of the club near a hostess who welcomed patrons as they entered the club. The club's cash register was also situated in the vestibule area. He had no interactions with any of the patrons who entered the club that night. He worked an eight hour shift that night for which he was paid \$200 in cash by the manager. He decided not to work there again because it required a long period of standing on his feet and because he realized that he "didn't want to be involved" working at that location.

Respondent testified that he had never previously engaged in any off-duty employment since his appointment to the Department, that this single night of off-duty employment constituted "testing the waters," that he has not engaged in any off-duty employment since that night, and that he engaged in this one night of off-duty

employment “just to make a few extra bucks.” Respondent has never previously been served with Charges and Specifications and he has received “several cop of the month awards.”

### PENALTY

In order to determine an appropriate penalty, Respondent’s service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Transit Authority Police Department on April 30, 1991, and was appointed to this Department on January 18, 1994. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pleaded guilty to having wrongfully engaged in off-duty employment in a security capacity at the Hustler Club on one occasion without having obtained Department authority or permission to do so. The Assistant Department Advocate recommended that Respondent’s penalty consist of the forfeiture of ten vacation days.

In *Case No. 2013-9278* (June 11, 2014), an eight-year police officer with no prior disciplinary record forfeited ten vacation days after he pleaded guilty to engaging in off-duty employment as a security guard at a Fairway Supermarket. Although the officer had previously obtained authorization to engage in this off-duty employment, his authorization lapsed during 2011, he did not bother to reapply for permission, and the Department only discovered that he was still engaging in off-duty employment as a

security guard in 2013 when he was arrested regarding an altercation with a customer while he was performing his security duties at Fairway.


Also, in *Case No. 2012-7244* (Apr. 9, 2013) a 21-year police officer with no prior disciplinary record forfeited ten vacation days after he pleaded guilty to engaging in unauthorized off-duty employment for nearly three years as a security guard for American Airlines at JFK Airport. In this case as well, the officer's ongoing, unauthorized off-duty employment did not end until it was finally discovered by Department investigators.

Unlike the above-cited cases, Respondent here ended his unauthorized off-duty employment on his own volition, not because his unauthorized off-duty employment was discovered by Department investigators. Moreover, in the above-cited cases the officers performed their unauthorized off-duty security duties for a year or more, whereas Respondent here worked only a single, eight-hour shift. However, that single shift did involve working in a security capacity at a club which he knew sold alcoholic beverages.

In determining a penalty recommendation here I have also taken into consideration that Respondent has no prior formal disciplinary record, consistently good performance evaluations, [REDACTED].

It is recommended that Respondent forfeit five vacation days.

Respectfully submitted,



Robert W. Vinal  
Assistant Deputy Commissioner Trials

**APPROVED**

NOV 26 2014  
  
WILLIAM J. BRATTON  
POLICE COMMISSIONER

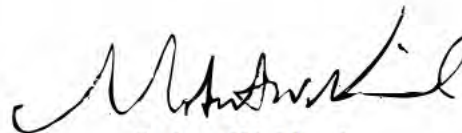


POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER CARL ABENANTE  
TAX REGISTRY NO. 905408  
DISCIPLINARY CASE NO. 2013-8900

Respondent received an overall rating of 3.5 on his 2013 performance evaluation, 4.0 on his 2012 evaluation, and 4.0 on his 2011 evaluation. He has been awarded one Meritorious Police Duty medal and six Excellent Police Duty medals. [REDACTED] k. He has no prior formal disciplinary record. He has no monitoring records.

For your consideration.



Robert W. Vinal  
Assistant Deputy Commissioner – Trials